

CHAPTER 475. MOTOR CARRIER ACT

THE MOTOR CARRIER ACT Act 254 of 1933

AN ACT to promote safety upon and conserve the use of public highways of the state; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles operated by carriers of property for hire upon or over such highways; to preserve, foster, and regulate transportation and permit the coordination of motor vehicle transportation facilities; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles for hire for such purposes; to classify and regulate carriers of property by motor vehicles for hire upon such public highways for such purposes; to give the Michigan Public Service Commission jurisdiction and authority to prevent evasion of this act through any device or arrangement; to insure adequate transportation service; to give the commission jurisdiction and authority to fix, alter, regulate, and determine rates, fares, charges, classifications, and practices of common motor carriers for such purposes; to require filing with the commission of rates, fares, and charges of contract carriers and to authorize the commission to prescribe minimum rates, fares, and charges, and to require the observance thereof; to prevent unjust discrimination; to prescribe the powers and duties of said commission with reference thereto; to provide for appeals from the orders of such commission; to confer jurisdiction upon the circuit court for the county of Ingham for such appeals; to provide for the levy and collection of certain privilege fees and taxes for such carriers for such purposes and the disposition of such fees and taxes; and to provide for the enforcement of this act; and to prescribe penalties for its violations.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1956, Act 164, Imd. Eff. Apr. 16, 1956;—Am. 1957, Act 173, Eff. Sept. 27, 1957;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

The People of the State of Michigan enact:

ARTICLE I GENERAL DEFINITIONS AND PURPOSE

475.1 Definitions.

Sec. 1. The words and phrases used in this act shall be construed as follows, unless the context shall otherwise require:

(a) “Motor vehicle” means any automobile, truck, trailer, semitrailer, truck tractor, road tractor, or any self-propelled or motor or mechanically driven vehicle, or any vehicle in anywise attached to, connected with, or drawn by any self-propelled or motor or mechanically driven vehicle, used upon any public highway of this state for the purpose of transporting property.

(b) “Public highway” means any public highway, road, street, avenue, alley, or thoroughfare of any kind, or any bridge, tunnel, or subway used by the public.

(c) “Commission” means the Michigan public service commission.

(d) “Person” means any individual, partnership, association, or corporation, and their lessees, trustees, or receivers appointed by any court.

(e) “For hire” means for remuneration or reward of any kind, paid or promised, either directly or indirectly.

(f) “Motor common carrier of property” means any person who holds himself or herself out to the public as being engaged in the business of a for hire common carrier as at the common law, either directly or through any device or arrangement, including but not limited to those who operate over fixed routes or within 1 mile of a fixed route or between fixed termini, in the transportation by motor vehicle from place to place upon or over the highways of this state, the property, or any property, or any class of property of others who may choose to employ the person.

(g) “The public” means that part or portion of the general public which the motor carrier is ready, able, willing, and equipped to serve.

(h) “Motor contract carrier of property” means any person providing motor vehicle transportation upon the highways of this state for a series of shipments under continuing agreement of not less than 1 year with a person which agreement provides for the assignment of motor vehicles exclusively for each such person while the vehicle is in the service of such person and which agreement is designed to meet the distinct needs of each such person. Lower rates, in and of themselves, shall not constitute a distinct need. A motor contract carrier that possesses a motor common carrier certificate of authority of that class set forth at section 5(6)(a) of article II may commingle authorized contract carrier shipments while providing common carrier service over fixed routes, without assigning any vehicle exclusively for the person or persons for whom contract service is

provided. A motor contract carrier authorized to transport packages or articles weighing 70 pounds or less for 1 or more contract shippers may commingle such authorized packages or articles weighing 70 pounds or less in the same vehicle with commodities transported as a common or contract carrier, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport coin, currency, or food stamps for 1 or more contract shippers, may commingle such authorized coin, currency, or food stamps in the same vehicle with commodities transported as a common or a contract carrier, without assigning any vehicle exclusively for the person for whom contract service is provided.

(i) “Motor carrier” means both motor common carriers of property and motor contract carriers of property. Motor carrier does not include a private carrier.

(j) “Certificate of authority” means a certificate issued to a motor common carrier authorizing a transportation service that serves a useful public purpose responsive to a public demand or need, which certificate is issued under the terms of this act.

(k) “Permit” means the permit issued to motor contract carriers under the terms of this act.

(l) “Through any device or arrangement” means any and all methods, means, agreements, circumstances, operations, or subterfuges under which any person undertakes for hire to conduct, direct, control, or otherwise perform the transportation by motor vehicle of property upon the public highways of this state.

(m) “Modified procedure” means that administrative procedure by which the commission may consider evidence and testimony submitted in the form of verified statements in motor carrier matters without the necessity for an oral hearing.

(n) “Occasional accommodative service” means service limited to operations conducted by persons not regularly engaged in the transportation business of a motor common carrier or a motor contract carrier.

(o) “Required public purpose” means a purpose for which an applicant can provide adequate, economic, safe, effective, competitive, and equitable motor carrier service to satisfy a demonstrated public necessity, without creating excess service.

(p) “Fit”, as applied to a proposed motor carrier service, means safe, suitable, and financially responsible as determined by the commission.

(q) “Private carrier” means any person engaged in the transportation of property by motor vehicle upon public highways where the transportation is incidental to, or in furtherance of, any commercial enterprise of the person, other than transportation.

(r) “General rate” means a rate applicable to 2 or more motor carriers which rate is filed pursuant to section 6b of article V.

(s) “Base rate, fare, or charge” means that nondiscounted rate, fare, or charge specified in a carrier's rate schedule on file with the commission.

(t) “Predatory rate” means a rate that is below its fully allocated costs. As used in this subdivision, “fully allocated costs” means total costs, including variable costs, plus an allocation of fixed costs.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1945, Act 264, Eff. Sept. 6, 1945;—CL 1948, 475.1;—Am. 1957, Act 173, Eff. Sept. 27, 1957;—Am. 1959, Act 232, Imd. Eff. Aug. 12, 1959;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

Former law: See Act 209 of 1923, being CL 1929, §§ 11342 to 11352; Act 212 and Act 312 of 1931.

475.1a Motor carrier act; short title.

Sec. 1a. This act shall be known and may be cited as “The motor carrier act”.

History: Add. 1943, Act 244, Imd. Eff. Apr. 22, 1943;—CL 1948, 475.1a.

475.2 Legislative purpose and policy.

Sec. 2. It is hereby declared to be the purpose and policy of the legislature in enacting this law to confer upon the commission the power and authority and to make it its duty to supervise and regulate the transportation of property by motor vehicle for hire upon and over the public highways of this state in all matters whether specifically mentioned herein or not, so as to: (a) Relieve all future undue burdens and congestion on the highways arising by reason of the use of the highways by motor vehicles operated by motor carriers; (b) protect and conserve the highways and protect the safety and welfare of the traveling and shipping public in their use of the highways; (c) promote competitive and efficient transportation services; (d) meet the needs of motor carriers, shippers, receivers, and consumers; (e) allow a variety of quality, price, and service options to meet changing market demands and the diverse requirements of the shipping public; (f) allow the most productive use of equipment and energy resources; (g) provide the opportunity for efficient and well-managed motor carriers to earn adequate profits and attract capital; (h) promote intermodal transportation; (i) prevent unjust discrimination; (j) promote greater participation by minorities in the motor

carrier system; (k) provide and maintain service to small communities and small shippers; (l) prevent evasion of this act through any device or arrangement; (m) promote entrepreneurship in the motor carrier industry by allowing greater contract carrier economic and entry flexibility; and (n) promote the use of jointly considered and initiated rates, classifications, divisions, allowances, charges, or rules of motor carriers under commission approved agreements.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 475.2;—Am. 1957, Act 173, Eff. Sept. 27, 1957;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

475.3 Temporary authority to render transportation service; conditions; validity; permit; duration; applicable law.

Sec. 3. (1) To enable the provisions of service for which there is an immediate and urgent need to a point or points or within a territory having no motor common carrier service capable of meeting that need, the commission may, upon a proper application, in its discretion and without hearings or other proceedings, grant temporary authority for that service by a motor common carrier by motor vehicle. The temporary authority, unless suspended or revoked for good cause, shall be valid until the commission has made a determination to grant or deny permanent authority. If after hearing permanent authority is granted, then corresponding temporary authority may be continued until the permanent authority becomes effective. The grant of temporary authority does not create a presumption that corresponding permanent authority will be granted thereafter.

(2) The commission may, upon a proper application which shall include specific definition of permit sought, in its discretion and without hearings or other proceedings, grant a temporary permit for that service by a motor contract carrier by motor vehicle. A temporary permit shall be granted, at the request of an applicant, in all cases, except when a safety or fitness related protest has been filed, which protest must include specific allegations necessary to state a prima facie case and reasonably inform the commission and the applicant of the nature of the allegations, with specific reference to the section or sections of all related statutes, rules, orders, and tariffs. The temporary permit, unless suspended or revoked for good cause, shall be valid until the commission has made a decision to grant or deny a permanent permit. The grant of a temporary permit creates no presumption that a corresponding permanent permit will be granted thereafter.

(3) Pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of 2 or more motor carriers, the commission may, in its discretion and without hearing or other proceedings, grant temporary approval, for a period not exceeding 60 days, of the operation of the motor carrier properties sought to be acquired by the person proposing in the pending application to acquire the properties, if it appears that failure to grant the temporary approval may result in destruction of or injury to the motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

(4) Transportation service rendered under temporary authority shall be subject to all applicable provisions of this act and to the rules of the commission.

History: Add. 1943, Act 244, Imd. Eff. Apr. 22, 1943;—CL 1948, 475.3;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

Former law: See Act 261 of 1939, which was repealed by Act 211 of 1941.

475.4 Matters under articles II or V to which section applicable; commission or employee delegated authority to make initial decision; extension of time period.

Sec. 4. (1) This section applies to all matters before the commission for which the commission has jurisdiction under article II or V.

(2) The commission or an employee to whom has been delegated the authority to make an initial decision in a matter related to a motor carrier:

(a) Shall, in any case in which an oral hearing is held, complete all evidentiary proceedings related to the matter not later than 180 days following institution of the proceeding, shall issue in writing the proposal for decision not later than 270 days following institution of the proceeding, and shall issue in writing the final decision not later than 300 days following institution of the proceeding.

(b) Shall, in the case of all other proceedings subject to this section, issue in writing the proposal for decision not later than 120 days following institution of the proceeding, and shall issue in writing the final decision not later than 180 days following institution of the proceeding.

(3) In extraordinary circumstances the commission may extend a time period established by this section. However, the total of all extensions with respect to any matter subject to this section shall not exceed 90 days.

History: Add. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

475.5 Matters under article III to which section applicable; commission or employee delegated authority to make initial decision; extension of time period.

Sec. 5. (1) This section applies to all matters before the commission for which the commission has jurisdiction under article III.

(2) The commission or an employee to whom has been delegated the authority to make an initial decision in the matter related to a motor carrier:

(a) Shall, in any case in which an oral hearing is held, in which the fitness of an applicant is not at issue, complete all evidentiary proceedings related to the matter not later than 90 days following institution of the proceeding; shall issue in writing the proposal for decision not later than 120 days following institution of the proceeding; and shall, issue in writing the final decision not later than 180 days following institution of the proceeding.

(b) Shall, in any case in which an oral hearing is held, in which the fitness of the applicant is at issue, complete all evidentiary proceedings related to the matter not later than 150 days following institution of the proceeding; shall issue in writing the proposal for decision not later than 210 days following institution of the proceeding; and shall issue in writing the final decision not later than 240 days following institution of the proceeding.

(c) Shall, in the case of all other proceedings subject to this section, issue in writing the final decision not later than 60 days following institution of the proceeding.

(3) In extraordinary circumstances the commission may extend the time period established by this section. However, the total of all extensions with respect to any matter subject to this section shall not exceed 90 days.

History: Add. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

**ARTICLE II
COMMON MOTOR CARRIERS**

476.1 Operation of motor vehicle by motor common carrier of property; certificate of authority.

Sec. 1. A motor common carrier of property shall not operate any motor vehicle for the transportation of property for hire on any public highway in this state except in accordance with the provisions of this act. A motor common carrier of property shall not operate upon any public highway without first having obtained from the commission a certificate of authority.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.1;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.2 Certificate of authority; application; determination; issuance.

Sec. 2. The commission, upon the filing of an application for a certificate of authority, shall ascertain and determine, under reasonable rules as it promulgates, whether to issue the certificate of authority.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.2;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.3 Application for certificate of authority; contents; fees; proof of insurance.

Sec. 3. An application for a certificate of authority shall be in writing, verified by affidavit, stating the experience of the applicant as a motor carrier, if any, the ownership and condition of the equipment and physical property of the applicant proposed to be used, that the vehicles of the applicant have passed an inspection within the immediately preceding 12 months pursuant to the requirements of the motor carrier safety act, Act No. 181 of the Public Acts of 1963, being sections 480.11 to 480.21 of the Michigan Compiled Laws, and 49 C.F.R. part 396, the support by shippers or receivers for the proposed service, the relation of the proposed service to the required public purpose to be served, and shall contain other information as the commission requires. The commission may request supplemental information from an applicant regarding accident records and citations issued to the applicant or drivers of the applicant within the immediately preceding 12 months when that information is considered necessary to make findings regarding the fitness of the applicant. Each application shall be accompanied by the required fees, proof of insurance before operations are commenced, and all other things required by law and the rules of the commission.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.3;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

476.4 Publishing notice of filing of application in biweekly information bulletin; hearing; notice; modified procedure.

Sec. 4. Upon the filing of an application for a certificate of authority to operate as a motor common carrier, the commission shall cause notice of the filing of the application to be published in a biweekly information

bulletin. The commission may schedule a hearing on the application or proceed under modified procedure. If a hearing is scheduled, notice shall be given in the same manner as the notice of filing of an application.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.4;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.5 Issuance of certificate of authority; findings; protesting application to provide transportation; requirements; petition to intervene; rights of motor carrier filing protest or of intervenor; classes of certificates; burden of proof.

Sec. 5. (1) Except as provided in this section, the commission shall issue a certificate of authority to an applicant authorizing that it provide transportation subject to the jurisdiction of the commission under this article as a motor common carrier of property if the commission finds all of the following:

(a) The character and condition of the vehicles proposed to be operated by the applicant is such that they may be operated safely upon the public highways.

(b) That the applicant is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this act and rules and regulations of the commission.

(c) On the basis of evidence presented, that the service proposed will serve a required public purpose, unless the commission finds that the transportation to be authorized by the certificate would create excess service by endangering the ability of the present carriers to provide adequate, economical, safe, and efficient service.

(d) That the service proposed is consistent with the transportation policy set forth in section 2 of article I.

(2) In making a finding under subsection (1), the commission shall consider and, to the extent applicable, make findings on at least all of the following:

(a) The transportation policy set forth in section 2 of article I.

(b) The existing available and adequate service in relation to the character and volume of available traffic.

(c) Whether the service proposed will create excess service inconsistent with the public interest. The commission shall not find diversion of revenue or traffic from an existing motor carrier to be in and of itself inconsistent with the public interest.

(d) The character of the bond or insurance proposed to be given to insure the protection of the public.

(e) Whether the applicant is fit, willing, and able to provide service commensurate with the extent of the certificate sought.

(3) A motor carrier may not protest an application to provide transportation filed under this section unless all of the following requirements are met:

(a) The protest is filed with the commission not later than 20 days following publication of the notice of the filing of the application in the biweekly bulletin.

(b) The motor carrier possesses a certificate of authority or permit authorizing it to handle, in whole or in part, the traffic for which an application is made.

(c) The motor carrier is willing and able to provide service that meets the reasonable needs of the shippers involved.

(d) The motor carrier has performed service within the scope of the application during the previous 12-month period.

(4) The commission may grant leave to intervene to a person other than a motor carrier or an applicant for a certificate of authority or permit upon a showing of other interests that are consistent with the transportation policy set forth in section 2 of article I. A petition to intervene shall not be granted unless filed with the commission not later than 20 days following publication of the notice of the filing of the application in the biweekly bulletin except for good cause shown.

(5) Any motor carrier having timely filed a protest or any intervenor having timely filed a petition to intervene may participate in person or by counsel, cross-examine witnesses, and offer testimony in support of, or in opposition to, the grant of a certificate of authority.

(6) Certificates of authority issued to motor common carriers of property under this act shall be of 3 classes:

(a) Certificates issued to motor carriers as may be operating over fixed routes or within 1 mile of a fixed route or between fixed termini.

(b) Certificates issued to motor carriers providing a transportation service within an 8-mile radius of a city having a population of 500,000 or more and including each city or village, a part of which is located within the 8-mile radius.

(c) Certificates issued to all other motor common carriers of property.

(7) The burden of proof shall be on the protestant to meet the requirement of subsection (2)(c).

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.5;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

476.6 Schedules of rates, fares, and charges; predatory rate; determination; joint rate; charges, privileges, and rules; printing and filing; public inspection; facilities.

Sec. 6. All motor common carriers of property subject to this act, shall before engaging in business, print and file with the commission and keep open to public inspection in its principal place of business and have available upon request, schedules showing all rates, fares and charges for transportation of property between different points on its route, and also between points on its own route and on the route of any other motor common carrier when a through route and joint rate have been established. When the commission grants a new authority to a motor common carrier, that carrier shall not charge a predatory rate. A predatory rate is a rate found to be below its fully allocated cost by the Michigan public service commission. The commission shall make this determination prior to the issuance of a certificate and commencement of operations. If a joint rate over the through route has not been established the several motor carriers shall file, print, and keep open for public inspection as described in this section, the separately established rates, fares, and charges applied to the through transportation, and shall likewise print, file, and keep open to the public inspection all other charges, privileges, or rules which in anywise change, affect, or determine any part of the rates, fares, charges, or the value of the service, and other information as required by the commission in its rules. In addition, a motor carrier shall keep the facilities of the motor carrier open to public inspection. A motor common carrier shall not receive or accept any person or property for transportation upon the highways until in compliance with the requirements of this section.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.6;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.7 Rates, fares, and charges to be just and reasonable; meeting competitive rates; future costs; refunding or remitting portion of required rates, fares, and charges prohibited; carrier as motor common carrier and motor contract carrier.

Sec. 7. (1) All rates, fares, and charges made by any motor common carrier shall be just and reasonable, and shall not be unjustly discriminatory, prejudicial, or preferential. Contract motor carrier rates, fares, and charges made by common motor carriers holding both common carrier and contract carrier authority shall not be considered by the commission to be unjustly discriminatory, prejudicial, or preferential in determining compliance with this section. Existing carriers will be permitted to meet competitive rates without further justification to the commission. The commission shall take into account reasonable estimated or foreseeable future costs in determining whether rates, fares, and charges meet the requirements of this subsection.

(2) A motor common carrier shall not charge, demand, collect, or receive a greater or less or different remuneration for the transportation of property, or for any service in connection therewith, than the rates, fares, and charges which have been legally established and filed with the commission.

(3) A motor common carrier shall not refund or remit in any manner or by any device any portion of the rates, fares, and charges required to be collected by the tariffs on file with the commission or ordered by the commission.

(4) Nothing in this act shall prohibit a carrier from operating both as a motor common carrier and a motor contract carrier.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.7;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

476.7a Investigation, suspension, revision, or revocation of proposed rate, fare, or charge by commission; requirements; protest prohibited.

Sec. 7a. (1) Notwithstanding any other provision of this act, the commission may not investigate, suspend, revise, or revoke any rate, fare, or charge proposed by a motor common carrier on the grounds that the rate, fare, or charge is unreasonable on the basis that it is too high or too low if all the following requirements are met:

(a) The motor carrier notifies the commission that it wishes to have the rate, fare, or charge considered pursuant to this section.

(b) The rate, fare, or charge is the product of independent action on the part of the motor carrier proposing the rate, fare, or charge.

(c) The aggregate of increases and reductions in any such rate, fare, or charge is not more than 20% above or below the base rate, fare, or charge in effect 1 year before the effective date of the proposed rate, fare, or charge.

(2) A motor common carrier may not protest a rate, fare, or charge proposed under this section.

History: Add. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

476.7b Motor carrier establishing through route with another carrier; rules; reasonable facilities and compensation.

Sec. 7b. A motor carrier subject to the jurisdiction of the commission that establishes a through route with another carrier shall establish rules for its operation and provide both of the following:

- (a) Reasonable facilities for operating the through route.
- (b) Reasonable compensation to persons entitled to compensation for services related to the through route.

History: Add. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.7c Transportation of household goods; rate; binding estimates; approximate costs; estimated charges entered on bill of lading; delivery of shipment upon payment.

Sec. 7c. (1) Subject to subsection (2), a motor common carrier providing transportation of household goods subject to the jurisdiction of the commission may, subject to the provisions of this article, including the general tariff requirements of section 6 of this article, establish a rate for the transportation of household goods which is based on the carrier's written, binding estimate of charges for providing such transportation, which the shippers will be required to pay for the services included in the estimate.

(2) A rate established under this section shall be available on a nonpreferential basis to shippers and shall not result in charges to shippers which are predatory.

(3) Binding estimates shall be furnished in writing to the shipper or other person responsible for payment of the freight charges and a copy of each such estimate shall be retained by the carrier as an addendum to the bill of lading. All such estimates shall clearly indicate on their face that the estimate is binding on the carrier and that the charges shown are the charges that will be assessed for the services identified in the estimate. Binding estimates shall clearly describe the shipment and all services to be provided.

(4) Motor common carriers engaged in the transportation of household goods may provide nonbinding estimates of the approximate costs that will be assessed for the transportation of such shipments. Nonbinding estimates shall be reasonably accurate. Estimates of approximate costs shall not be binding on the carriers providing such estimates. The final charges on shipments moved on nonbinding estimates shall be those appearing in the carriers' tariffs applicable to the transportation. Nonbinding estimates, if provided, shall be furnished without charge and in writing to the shipper or other person responsible for payment of the freight charges. A copy of each such estimate shall be retained by the carrier as an addendum to the bill of lading. All such estimates shall clearly indicate on the face of the estimate that the estimate is not binding on the carrier and that the charges shown are the approximate charges that will be assessed for the services identified in the estimate. Nonbinding estimates shall clearly describe the shipment and all services to be provided.

(5) Motor common carriers furnishing nonbinding estimates shall enter the estimated charges on the bill of lading.

(6) At time of delivery of a collect on delivery shipment, except when the shipment is delivered to a warehouse for storage at the request of the shipper, on which a nonbinding estimate of the approximate costs has been furnished by the carrier pursuant to subsection (4), the shipper may request delivery of the shipment upon payment, in a form acceptable to the carrier, of an amount not exceeding 110% of the estimated charges. Upon request of the shipper, the carrier shall relinquish possession of the shipment upon payment of not more than 110% of the estimated charges and shall defer demand for the payment of the balance of any remaining charges for a period of 30 days following the date of delivery.

History: Add. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

476.8 Prohibited conduct; penalty.

Sec. 8. A person, whether motor carrier, shipper, or consignee, or any officer, employee, agent, or representative of a motor carrier, shipper, or consignee, who knowingly offers, grants, or gives, or solicits, accepts, or receives any rebate, concession, or discrimination in violation of this act, or who, by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly and wilfully assists, suffers, or permits a person to obtain transportation of property subject to this article for less than the applicable rate, fare, or charge, or who knowingly and wilfully, by any means, fraudulently seeks to evade or defeat rules as promulgated under this act for motor common carriers, is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 6 months, or both.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1945, Act 264, Eff. Sept. 6, 1945;—CL 1948, 476.8;—Am. 1959, Act 114, Eff. Mar. 19, 1960;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.9 Liability of motor common carrier; recovery.

Sec. 9. If a motor common carrier does or causes or permits to be done any act or thing in this act prohibited or declared to be unlawful, or omits to do any act or thing required to be done by the motor common carrier under this act or under any lawful order made by the commission, the motor common carrier is liable to the person, firm, or corporation injured to the extent of the actual amount of damages sustained in consequence of the violation. A recovery as provided in this section shall not affect a recovery by the state of the penalty prescribed for the violation.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.9;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.10 Powers and duties of commission.

Sec. 10. The commission shall supervise and regulate all motor common carriers of property and regulate and determine reasonable and sufficient rates, fares, charges, and classifications; regulate the facilities, accounts, service, and safety of operations of each motor common carrier. To insure adequate transportation service to the territory traversed by the motor common carriers, the commission may require the coordination of the service and schedules of competing motor common carriers; require the filing of annual and other reports, tariffs, schedules, and other data by the motor common carriers; supervise and regulate motor common carriers in all matters affecting the relation between the motor carriers, and the public and between motor carriers; and promulgate rules for the purpose of promoting safety upon the highways and the conservation of their use to the end that the provisions of this act may be fully and completely carried out. The commission, by general order or otherwise, shall promulgate rules in conformity with this act applicable to all motor common carriers, and to do all things necessary to carry out and enforce this act.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.10;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.11 Interchanging equipment and furnishing through service authorized; general rules or special orders.

Sec. 11. The commission shall authorize motor common carriers of property to interchange equipment and furnish through service under general rules or special orders reasonably safeguarding equipment and the use of equipment whenever the public interest will be served thereby.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.11;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.12 Interstate commerce.

Sec. 12. Interstate commerce. This act shall apply to persons and motor vehicles engaged in interstate commerce, except only insofar as it may be inconsistent with, or shall contravene, the constitution or the laws of the United States.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.12.

476.13 Abandonment or discontinuance of service; order; revocation of certificate.

Sec. 13. A motor common carrier authorized by this act to operate shall not abandon or discontinue any service established under this act without an order of the commission. A certificate under which service is discontinued for more than 30 days without the previous order of this commission authorizing the discontinuance may be revoked after notice and hearing.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.13;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

476.14 Emergency or unusual temporary demands for transportation; fees.

Sec. 14. In case of emergency or unusual temporary demands for transportation, the fees for additional motor propelled or drawn vehicles for limited periods and the circumstances and regulations under which they may be permitted to be operated, used, or employed by any motor common carrier shall be prescribed and fixed by general rule or temporary order of the commission, any provisions of this act to the contrary notwithstanding.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 476.14;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

ARTICLE III CONTRACT MOTOR CARRIERS

477.1 Operation of motor vehicles by motor contract carrier of property; permit.

Sec. 1. A motor contract carrier of property shall not operate any motor vehicle for the transportation of property for hire on any public highway in this state, except in accordance with this act. A motor contract carrier of property shall not operate within this state without first having obtained from the commission a permit for the operation.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.1;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

477.2 Permit; application; determination; issuance.

Sec. 2. (1) The commission, upon the filing of an application for a permit to operate as a motor contract carrier, shall ascertain and determine, under those reasonable rules as it promulgates, all of the following:

(a) Whether the character of business to be done by the applicant strictly conforms with the definition of a motor contract carrier.

(b) That the character and condition of the vehicles proposed to be operated by the applicant is such that they may be operated safely upon the public highways.

(c) The effect that denying the permit would have on the shippers of the applicant for the permit.

(2) Unless the commission determines that the character of business to be done does not strictly conform with the definition of a motor contract carrier; the transportation to be provided under the permit is or will be inconsistent with the transportation policy set forth in section 2 of article I; that the applicant is unfit; or that the vehicles of the applicant may not be operated safely upon the public highways, the application shall be granted, in whole or in part, and a permit issued upon lawful terms and conditions as the commission imposes, and subject to the rules promulgated by the commission, for the whole or for only the partial exercise of the privilege sought.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.2;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

477.3 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed section pertained to the character of operation proposed by common or contract motor carrier.

477.4 Application for permit; contents; fees.

Sec. 4. An application for a permit shall be in writing, verified by affidavit, stating the experience of the applicant as a motor carrier, if any, the ownership and condition of the equipment and physical property of the applicant proposed to be used, that the vehicles of the applicant have passed an inspection within the immediately preceding 12 months pursuant to the requirements of the motor carrier safety act, Act No. 181 of the Public Acts of 1963, being sections 480.11 to 480.21 of the Michigan Compiled Laws, and 49 C.F.R. part 396, the support by shippers or receivers for the proposed service, the manner in which the proposed service strictly conforms to the definition of contract carriage, and shall contain other information as the commission requires. The commission may request supplemental information from an applicant regarding accident records and citations issued to the applicant or drivers of the applicant within the immediately preceding 12 months, when such information is considered necessary to make findings regarding the fitness of the applicant. Each application shall be accompanied by the required fees and all other things required by law and the rules of the commission.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.4;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

477.5 Publishing notice of filing of application in biweekly information bulletin; hearing; notice; modified procedure.

Sec. 5. Upon the filing of an application for a permit to operate as a motor contract carrier, the commission shall cause notice of the filing of the application to be published in a biweekly information bulletin. The commission may schedule a hearing on the application or proceed under modified procedure. If a hearing is scheduled, notice shall be given in the same manner as the notice of the filing of any application. A motor carrier may not commence operations under authority granted to it by the commission for at least 20 days after issuance of the order, nor before a permit has been issued.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.5;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

477.5a Protesting application to provide transportation; requirements; petition to intervene; powers of motor carrier filing protest or intervenor.

Sec. 5a. (1) A motor carrier may not protest an application to provide transportation under this section unless all of the following requirements are met:

(a) The protest is filed with the commission not later than 20 days following publication of the notice of the filing of the application in the biweekly bulletin.

(b) The motor carrier possesses a permit or certificate of authority authorizing it to handle, in whole or in part, the traffic for which an application is made.

(c) The motor carrier is willing and able to provide service that meets the reasonable needs of the shippers involved.

(d) The motor carrier has performed service within the scope of the application during the previous 12-month period.

(2) The commission may grant leave to intervene to a person other than a motor carrier or an applicant for a certificate of authority upon a showing of other interests that are consistent with the transportation policy set forth in section 2 of article I. A petition to intervene will not be granted unless filed with the commission not later than 20 days following publication of the notice of the filing of the application in the biweekly bulletin except for good cause shown.

(3) Any motor carrier having timely filed a protest or any intervenor having timely filed a petition to intervene may participate in person or by counsel, cross-examine witnesses, and offer testimony in support of, or in opposition to, the grant of the permit.

History: Add. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

477.6 Duties of commission; rates, practices, and rules; establishment and filing; minimum rate or practice or rule; availability of contract to commission; disclosure; determination of predatory filings; filing statement of charges with commission.

Sec. 6. (1) The commission shall supervise and regulate all motor contract carriers of property, require the filing of annual and other reports and other data by the motor contract carriers; promulgate rules covering the filing with the commission of the charges, and the operations of motor contract carriers in competition with motor common carriers over the highways of this state; and promulgate rules for the purpose of promoting safety upon the highways and the conservation of their use, to the end that the provisions of this act may be fully and completely carried out. The commission, by general order or otherwise, shall promulgate rules in conformity with this act applicable to all motor contract carriers, and to do all things necessary to carry out and enforce the provisions of this act.

(2) Each motor contract carrier, in a form as the commission prescribes and in accordance with the rules as the commission promulgates, shall establish and file with the commission actual rates and practices and rules of the contract carrier related to those rates. A motor contract carrier shall not be required with rate filings to submit evidence of the revenues and expenses to be realized in the performance of its authorized functions. A motor contract carrier shall make available to the commission its complete contract or contracts, but shall not be required to file such contract or contracts with the commission. A member of the commission, or a clerk, officer, or employee of the state shall not divulge or make known, in any manner whatsoever not provided by this section, to any person the rate filings of a contract carrier, unless a complaint has been brought by order of the commission against a contract carrier alleging that a rate of a contract carrier or practice or rule of the contract carrier related to the rate or value of service under that rate is predatory and in violation of this act. Rate filings of a contract carrier are exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, unless a complaint has been brought by order of the commission against a contract carrier pursuant to this section. The commission shall review all rate filings to determine that such rate filings are not predatory. When the commission finds that a rate of a contract carrier or practice or rule of the contract carrier related to the rate or the value of service under that rate is predatory and in violation of this act, the commission shall prescribe the minimum rate or practice or rule. In making a predatory rate determination and when prescribing a minimum rate or practice or rule related to a rate for a motor contract carrier, the commission shall consider all of the following:

(a) All revenues and costs associated with 1 specific contract or appendix to that contract.

(b) The effect of a prescribed minimum rate or practice or rule on the movement of traffic by that carrier.

(c) Other matters as the commission considers necessary.

(3) A motor contract carrier shall not receive or accept property for transportation upon the highways until the statement of charges has been filed with the commission.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.6;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

477.7 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed section prohibited unfair competition.

477.8 Prohibited conduct; penalty.

Sec. 8. A person, whether motor carrier, shipper, or consignee, or any officer, employee, agent, or representative of a motor carrier, shipper, or consignee, who knowingly offers, grants, or gives, or solicits, accepts, or receives any rebate, concession, or discrimination in violation of this act, or who, by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device, knowingly and wilfully assists, suffers, or permits a person to obtain transportation of property subject to this article for less than the applicable rate, fare, or charge, or who knowingly and wilfully, by any means, fraudulently seeks to evade or defeat rules as promulgated under this act for motor contract carriers, is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 6 months, or both.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1945, Act 264, Eff. Sept. 6, 1945;—CL 1948, 477.8;—Am. 1959, Act 114, Eff. Mar. 19, 1960;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

477.9 Liability of motor contract carrier; recovery.

Sec. 9. If a motor contract carrier does or causes or permits to be done any act or thing in this act prohibited or declared to be unlawful, or omits to do any act or thing required to be done under this act or under any lawful order made under this act by the commission, the carrier is liable to the person, firm, or corporation injured to the extent of the actual amount of damages sustained in consequence of the violation. A recovery as provided in this section shall not affect a recovery by the state of the penalty prescribed for the violation.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.9;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

477.10 Interstate commerce.

Sec. 10. Interstate carriers. This act shall apply to persons and motor vehicles engaged in interstate commerce, except only insofar as it may be inconsistent with, or shall contravene, the constitution or the laws of the United States.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.10.

477.11 Cessation of operations or abandonment of rights under permit; notice.

Sec. 11. Each motor contract carrier of property or passengers who ceases operations or abandons its rights under the permit issued shall notify the commission within 30 days of the cessation or abandonment.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.11;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

477.12 Emergency or unusual temporary demands for transportation; fees.

Sec. 12. In case of emergency or unusual temporary demands for transportation, the fees for additional motor propelled or drawn vehicles for limited periods and the circumstances and regulations under which they may be permitted to be operated, used, or employed by any motor contract carrier shall be prescribed and fixed by general rule or temporary order of the commission, any provisions of this act to the contrary notwithstanding.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 477.12;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

ARTICLE IV

FEES

478.1 Application for certificate of authority or permit or renewal; fee; disposition.

Sec. 1. Each application filed with the commission for a certificate of authority or for a permit, as required by this act, shall be accompanied by a fee of \$100.00. Each application filed with the commission for the renewal of a certificate or permit shall be accompanied by a fee of \$50.00 for the administration of this act, which fee shall be in addition to all other fees, and shall be retained by the commission and deposited with the state treasurer, whether or not the certificate or permit or the renewal of the certificate or permit is granted.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 478.1;—Am. 1953, Act 170, Eff. Oct. 2, 1953;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

478.1a Protest to application; fee.

Sec. 1a. A motor carrier filing a protest to an application for a certificate of authority or for a permit shall submit a fee of \$50.00 for the administration of this act. This fee shall be retained by the commission and

deposited with the state treasurer.

History: Add. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

478.2 Annual fee for administration of act; replacement identification fee; temporary permit; fee; operation of motor vehicle while fees unpaid prohibited; extension prohibited; motor carriers not required to pay fees within certain area; obtaining plates, decals, or tabs at single location.

Sec. 2. (1) In addition to the license fees or taxes otherwise imposed upon motor carriers, there shall be assessed against and collected from each motor carrier for the administration of this act, an annual fee of \$100.00 for each self-propelled motor vehicle operated by or on behalf of the motor carrier, except as otherwise provided in this subsection. A motor carrier shall pay a fee of only \$50.00 for each self-propelled motor vehicle operated by or on behalf of the motor carrier, if the motor carrier begins operation of the vehicle after June 30 and has not previously paid a fee under this subsection for that vehicle. After payment of the \$100.00 annual fee for a motor vehicle, or the \$50.00 fee paid for a vehicle operated after June 30, or the \$50.00 fee paid for a vehicle used for the transportation of household goods if a motor carrier seeks to begin operating a self-propelled motor vehicle in place of another motor vehicle not leased to the motor carrier by an owner operator for which a fee was paid and surrenders the identification allocated to the motor vehicle by the commission, accompanied by a fee of \$10.00, a replacement identification shall be issued. If the owner operator replaces a vehicle while it is still leased to the same motor carrier to whom it was leased when the identification was issued, the replacement identification fee shall be \$10.00. For all other replacement vehicles, the fee shall be \$25.00 for each complete or partial calendar year quarter remaining in the year as of the date the replacement vehicle is to begin operating upon surrender of the identification allocated to the motor carrier by the commission. For each truck or tractor used exclusively for the transportation of household goods as defined by the commission, the annual fee shall be \$50.00.

(2) A motor carrier licensed in this state shall pay an annual fee of \$100.00 for each vehicle operated by the motor carrier which is registered in this state and operating entirely in interstate commerce. A motor carrier shall pay a fee of only \$50.00 for each self-propelled motor vehicle operated by or on behalf of the motor carrier if the motor carrier begins operation of the vehicle after June 30 and has not previously paid a fee under this subsection for that vehicle.

(3) The commission may issue a temporary 72-hour permit for the operation of a vehicle subject to rules and conditions of the commission at a fee of \$10.00, which is in place of any other fee otherwise required under this section. The commission shall reserve the authority to deny or curtail the use of temporary permits authorized by this section.

(4) A motor carrier shall not operate any motor vehicle upon or over the highways of this state, except as otherwise provided in this act, while any of the fees imposed by this act remain unpaid. The commission is prohibited from extending the time of payment or permitting the operation while the delinquency continues.

(5) Motor carriers subject to this act shall not be required to pay the fee on operations of vehicles within the area described in section 2(1)(a) of article V.

(6) The commission shall cooperate with other state departments involved with the registration of commercial motor vehicles to implement a system whereby owners or drivers of commercial motor vehicles can obtain registration plates, decals, or tabs and pay the required fees at a single designated location, rather than at multiple locations.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 478.2;—Am. 1958, Act 84, Eff. Sept. 13, 1958;—Am. 1961, Act 85, Eff. Sept. 8, 1961;—Am. 1964, Act 26, Eff. Aug. 28, 1964;—Am. 1966, Act 162, Imd. Eff. July 1, 1966;—Am. 1968, Act 120, Imd. Eff. June 11, 1968;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1984, Act 151, Eff. Jan. 1, 1985;—Am. 1988, Act 347, Imd. Eff. Oct. 25, 1988;—Am. 1989, Act 221, Imd. Eff. Dec. 13, 1989;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

Compiler's note: Enacting section 2 of Act 347 of 1988, which provided as follows: "Section 2. This amendatory act shall take effect January 1, 1989." was repealed by enacting section 2 of Act 369 of 1988, Imd. Eff. Dec. 21, 1988.

478.2a, 478.3 Repealed. 1966, Act 162, Eff. Jan. 1, 1967.

Compiler's note: The repealed sections pertained to motor vehicles with dump type equipment and provided for annual fees, transfer fees, and records and reports.

478.4-478.5 Repealed. 1963, Act 182, Eff. Sept. 6, 1963;—1966, Act 162, Eff. Jan. 1, 1967.

Compiler's note: The repealed sections provided for daily mileage record, required payment of fees.

478.5a Repealed. 1966, Act 162, Eff. Jan. 1, 1967.

Compiler's note: The repealed section required privilege fee for operation of motor vehicle.

478.6 Motor carrier license fees and taxes; disposition; appropriation.

Sec. 6. All moneys received under the provisions of this act shall be placed to the credit of the commission. The legislature shall appropriate such moneys to the commission and the motor vehicle highway fund in such proportions as the legislature may determine.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 478.6;—Am. 1951, Act 52, Imd. Eff. May 23, 1951;—Am. 1959, Act 180, Imd. Eff. July 22, 1959.

478.7 Motor carrier engaged in interstate or foreign transportation of property for compensation; registration and vehicle fees; filing record of authority; approval of application for registration of exempt operations; annual fee; reciprocal agreement; disposition of fees.

Sec. 7. (1) A motor carrier shall not engage in the interstate or foreign transportation of property for compensation without first having registered with the commission and paid the required registration and vehicle fees.

(2) A motor carrier operating in this state under authority granted by the interstate commerce commission pursuant to section 10922 of subchapter II of chapter 109 of subtitle IV of title 49 of the United States code, 49 U.S.C. 10922, shall file and maintain a record of that authority with the commission. A motor carrier shall not operate within this state without first complying with this subsection.

(3) A motor carrier shall not engage in the interstate transportation of property within this state pursuant to exemptions from economic regulation permitted under the interstate commerce act, under subtitle IV of title 49 of the United States code, 49 U.S.C. 10101 to 11917, without the approval by the commission of an application for the registration of the exempt operations.

(4) The annual fee levied on each interstate or foreign motor carrier vehicle operated in this state and licensed in another state or province of Canada shall be \$10.00. The commission may enter into a reciprocal agreement with a state or province of Canada that does not charge vehicles licensed in this state economic regulatory fees or taxes and may waive the fee required under this subsection.

(5) Of the fees collected pursuant to this section, not less than 90% of those fees collected in excess of \$1,400,000.00 annually shall be deposited in the truck safety fund established in section 25 of Act No. 51 of the Public Acts of 1951, being section 247.675 of the Michigan Compiled Laws.

History: Add. 1988, Act 347, Imd. Eff. Oct. 25, 1988;—Am. 1989, Act 221, Imd. Eff. Dec. 13, 1989.

Compiler's note: Enacting section 2 of Act 347 of 1988, which provided as follows:

"Section 2. This amendatory act shall take effect January 1, 1989."

was repealed by enacting section 2 of Act 369 of 1988, Imd. Eff. Dec. 21, 1988.

In subsections (2) and (3), "United States code" evidently should read "United States Code."

478.8 Effective date of increased annual fee and new registration procedure.

Sec. 8. The increase in the annual fee from \$50.00 to \$100.00 in section 2 of this article provided by Act No. 347 of the Public Acts of 1988 for a motor carrier licensed in this state and the new registration procedure instituted in section 7 of this article by Act No. 347 of the Public Acts of 1988 shall take effect January 1, 1990.

History: Add. 1988, Act 369, Imd. Eff. Dec. 21, 1988.

ARTICLE V

POLICY OF STATE, EXEMPTIONS, LIMITATIONS, GENERAL REGULATIONS AND PROCEDURE; PENALTIES; MISCELLANEOUS

479.1 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed section contained a declaration of public interest and statement of public policy.

479.2 Exemptions; "corporate family" defined; applicability of exemptions.

Sec. 2. (1) This act shall not apply to any of the following:

(a) A vehicle operated entirely within a city or village of this state; or to a motor carrier of property whose operations may extend a distance of not more than 8 miles beyond the boundary of a city or village having a population of less than 500,000, if the origin and destination of the property being transported is within an 8-mile radius of the city or village. The territory within the external corporate limits of a city, even though it includes and embraces the area of 1 or more separately organized and existing cities, shall be considered a single city. Notwithstanding any other provision of this subdivision, a certificate or permit issued under this act is required for the operation of a vehicle of a motor carrier, other than a vehicle exempted under subdivisions (b) to (p), in the transportation of property between a city having a population of 500,000 or

more and a city or village located within the commercial zone of a city having a population of 500,000 or more, or between cities or villages within that commercial zone. As used in this subdivision, "commercial zone" means the area within an 8-mile radius of a city having a population of 500,000 or more and includes all cities and villages, any part of which are located within that 8-mile radius.

(b) A vehicle owned or operated by the state or the United States, or by a state or federal corporation, agency, or instrumentality.

(c) A vehicle owned or operated by an incorporated city, village, or school district, or by a county or township in the state or by a corporation, agency, or instrumentality of the state, for governmental purposes.

(d) A vehicle used exclusively for carrying United States mail.

(e) A vehicle used for the transportation of farm products, including livestock, when transported by other than the owner, from the farm to the market in the raw state, or used for the transportation of milk from the farm to milk stations, or trucks owned by a farmer bearing a farm truck license issued under section 801(1)(c) of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.801 of the Michigan Compiled Laws, when being used by the farmer in hauling farm produce, livestock, or farm equipment, and supplies for other farmers for remuneration in kind or in labor, but not for money.

(f) A vehicle used for the transportation of fruits, eggs, poultry, fish and seafood, grain, vegetables, seeds, nursery stock, horticultural products, and sugar beets. This subdivision shall not exempt a vehicle transporting the commodities described in this subdivision in other than the raw state.

(g) A vehicle used for occasional accommodative service including seasonal transportation of perishable commodities even though the cost of the accommodative service and seasonal transportation of perishable commodities may be paid by the person accommodated.

(h) A dump truck having not more than 4 axles or any dump vehicle moving directly to and from a public highway, airport, or railroad or bridge construction site, when used for the transportation of sand, gravel, slag, stone, limestone, crushed stone, marl, pebbles, cinders, bituminous aggregates, asphalt, blacktop, dirt, or fill material, or any dump vehicle transporting commodities generally transported in the dump vehicle operating within an 8-mile radius of a city having a population of 500,000 or more and including all other cities or villages, any part of which is located within the 8-mile radius.

(i) A vehicle used to transport a vehicle that is temporarily disabled from a point within an 8-mile radius of a city having a population of 500,000 or more and including all other cities or villages, any part of which is located within the 8-mile radius to another point within that radius.

(j) A vehicle used for the transportation of pulpwood, logs, wood chips, bark, and sawdust when the vehicle is being used to move the commodities from a forest, woodlot, cutting site, sawmill, or chipping site to a market or railroad siding of not more than a 140-mile radius from the place where the vehicle is loaded.

(k) A vehicle having a manufacturer's rating of not more than 1-1/2 tons capacity or the equivalent gross vehicle weight rating used for the transportation of newspapers.

(l) A vehicle towing a disabled motor vehicle from the location at which it was disabled to another location or a vehicle towing a motor vehicle involved in an accident from the location of the accident to another location.

(m) A vehicle used in the transportation of livestock, poultry feed, chemicals, pesticides, and fertilizers on movements directly to a farm for use in agricultural production.

(n) A vehicle used for the transportation of property for compensation provided by a person who is a member of a corporate family for other members of the corporate family, if all of the following conditions are met:

(i) The parent corporation notifies the commission annually of its intent or the intent of 1 of its subsidiaries to provide the transportation.

(ii) The notice described in subparagraph (i) contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a 100% interest in each of the subsidiaries.

(iii) The notice described in subparagraph (i) is accompanied by a fee of \$100.00.

(iv) The commission publishes the notice described in subparagraph (i) in the biweekly bulletin.

(v) A copy of the notice described in subparagraph (i) is carried in the cab of all vehicles conducting the transportation.

(o) A vehicle transporting animal and poultry feed or feed ingredients to sites of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.

(p) A vehicle transporting recyclable materials to or from a resource recovery facility. The terms "recyclable materials" and "resource recovery facility" have the meanings attributed to these terms in part 115 (solid waste management) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.11501 to 324.11549 of the Michigan Compiled Laws, except that the term recyclable materials does not include industrial scrap metal. This subdivision shall not be construed to

exempt from this act a vehicle transporting new products.

(2) As used in subsection (1)(n), "corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100% interest.

(3) None of the exemptions in this section, where applicable, apply to a vehicle entering this state from another state, foreign country, or subdivision of a state or foreign country that does not extend similar exemptions to vehicles from this state entering the state, foreign country, or subdivision.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1941, Act 211, Imd. Eff. June 16, 1941;—Am. 1943, Act 41, Imd. Eff. Mar. 29, 1943;—Am. 1948, 1st Ex. Sess., Act 36, Imd. Eff. May 10, 1948;—CL 1948, 479.2;—Am. 1954, Act 127, Eff. Aug. 13, 1954;—Am. 1956, Act 164, Imd. Eff. Apr. 16, 1956;—Am. 1957, Act 150, Eff. Sept. 27, 1957;—Am. 1965, Act 37, Imd. Eff. May 19, 1965;—Am. 1971, Act 194, Imd. Eff. Dec. 20, 1971;—Am. 1978, Act 558, Imd. Eff. Dec. 22, 1978;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1984, Act 94, Imd. Eff. Apr. 20, 1984;—Am. 1986, Act 153, Imd. Eff. July 3, 1986;—Am. 1989, Act 249, Imd. Eff. Dec. 21, 1989;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994;—Am. 1996, Act 76, Imd. Eff. Feb. 26, 1996.

Constitutionality: Subdivision (a) of this section, exempting from provisions of the motor carrier act carriers of property whose operations may extend to an area not exceeding statutory 8 miles beyond city or village boundary, is not so clear that an ordinary person can tell what he may or may not do thereunder, and is therefore invalid. *People v. Wiegand*, 369 Mich. 204, 119 N.W.2d 545 (1963).

479.3 Control by cities and villages; local business.

Sec. 3. Cities and villages, control of streets. Nothing herein contained shall be construed to interfere with the right of any city or village to the reasonable control by general regulation applicable to all motor vehicles of its streets, alleys and public places; or to authorize a motor carrier to do a local business without the consent of the municipality in which such local business is wholly carried on.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.3.

479.4 Highway commissioners; duty to furnish information.

Sec. 4. Duty of highway commissioners. It shall be the duty of the state highway commissioner and of the several county road commissioners, upon request of the commission, to obtain and furnish information relating to the highways and congestion thereon and the bridges, tunnels and subways located in any territory designated in any application for a certificate or a permit, as well as such other information as the commission may deem pertinent upon the hearing of such application.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.4.

479.5 Certificates and permits; construction, transfer.

Sec. 5. No certificate and no permit issued under the terms of this act shall be construed to be a franchise nor to be irrevocable, and no such certificate and no such permit shall be assigned or otherwise transferred without the approval of the commission: Provided, however, That upon the death or bankruptcy of any individual holding a currently valid certificate or permit, the commission shall authorize the transfer of said certificate or permit to the legal representative of such person upon due proof of such death or bankruptcy and upon due proof of the qualifications of such legal representative to act in such matter. Nothing contained herein shall abrogate the provisions of sections 10, 14 and 18 of this article, nor section 13 of article 2 of this act, nor section 11 of article 3 of this act.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.5;—Am. 1956, Act 164, Imd. Eff. Apr. 16, 1956.

479.6 Commission; forms, rules, and bulletin.

Sec. 6. (1) The commission shall prescribe the forms of applications for certificates and permits, and promulgate rules pertaining to the contents and filing of applicants, and is empowered to administer and enforce all provisions of this act, and to establish and enforce rules affecting the operations of all motor carriers subjected to the provisions of this act affecting their use of the highways, and affecting the conduct of investigations and hearings authorized in this act, and also in respect of all matters pertaining to the proper enforcement of all provisions and purposes of this act. The rules shall be promulgated and become effective only pursuant to and in compliance with Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The rules may be rescinded, suspended, modified, and amended at any time in the discretion of the commission and in accordance with Act No. 306 of the Public Acts of 1969, as amended, to effectuate the purposes of this act. All rules promulgated by the commission shall be given and shall have the force and effect of law.

(2) The commission shall provide for the issuance of a bulletin of notices of hearings, applications, and notices of the transfer of permits or certificates, the filing with it of rates, fares, and charges and any other matters relating to its powers and duties regulating transportation. The bulletin shall be issued biweekly and mailed to each holder of an intrastate motor carrier authority from the commission. The mailing of the bulletin to the motor carrier at its registered place of business is to constitute official notice to the motor carrier of the

applications, hearings, transfer of certificates or permits, and other official business of the commission as appears in the bulletin, and no other notice thereof need be given the motor carriers except as is otherwise in this act expressly required. The bulletin shall be furnished and mailed to the public upon payment by anyone subscribing for the bulletin of an annual fee to be fixed by the commission with due regard to cost and the interest of the public in its activities.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.6;—Am. 1954, Act 28, Imd. Eff. Mar. 31, 1954;—Am. 1967, Act 27, Imd. Eff. June 2, 1967;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Administrative rules: R 460.15001 et seq. of the Michigan Administrative Code.

479.6a Applicability of section; change in rate, fare, charge, classification, rule, or practice; notice; effective date; investigation; petition for suspension; order; hearing.

Sec. 6a. (1) This section applies to all matters before the commission for which the commission has jurisdiction under article II.

(2) A change shall not be made in any general rate nor shall a change be made in any rate, fare, charge, or classification, or any rule or practice affecting the rate, fare, charge, or classification, or the value of the service thereunder, specified in any effective tariff of any motor carrier for hire, except for 30 days' notice, or 45 days' notice in a general rate increase or reduction, to the commission and to the public, filed and posted in accordance with section 6 of article II except that changes in rates, fares, charges, or classifications or the value of service thereunder made pursuant to section 7a of article II shall be made on 10 days' notice. The notice shall plainly state the change proposed to be made and the time when the change will take effect. The commission may, in its discretion, after good cause shown, allow changes upon less time than the notice specified in this subsection or modify the requirements in this section in respect to publishing, posting, and filing of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions.

(3) Upon the filing with the commission by any motor carrier for hire of any tariff or supplement showing any change in rates, fares, charges, or classification, or any rule or practice affecting the rate, fare, charge, or classification, or the value of the service thereunder, the commission, upon notice to the motor carrier, may postpone the date when the new rate, fare, charge, classification, rule, or practice shall become effective to a time not to exceed 60 days to give the commission opportunity to investigate the reasonableness of the proposed rate, fare, charge, classification, rule, or practice. The commission may proceed with an investigation upon at least 10 days' notice to the motor carrier as to the reasonableness of the rate, fare, charge, classification, rule, or practice. The investigation shall take precedence over all matters of a different nature pending before the commission under this act.

(4) Except in an emergency satisfactorily shown to the commission, a petition for suspension shall not be considered unless filed at least 10 days before the effective date of the proposed change in rate, charge, fare, classification, rule, or practice. The petition or order shall be definite and specific and a copy shall be served upon all motor carriers affected at the time of filing or issuance. However, service upon an agent who has issued and filed a tariff or schedule in behalf of a motor carrier or carriers shall be considered to be due and sufficient service upon the motor carrier or carriers. The petition or order must recite the specific facts relied upon to establish that failure to postpone will work a special hardship on the petitioner, that cannot otherwise be avoided.

(5) At any hearing involving a change in a rate, fare, charge, classification, rule, or practice, the burden of proof shall be upon the carrier to show that the proposed changed rate, fare, charge, classification, rule, or practice is just and reasonable.

History: Add. 1943, Act 244, Imd. Eff. Apr. 22, 1943;—CL 1948, 479.6a;—Am. 1954, Act 28, Imd. Eff. Mar. 31, 1954;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

479.6b Applicability of section; joint consideration and initiation of rates, fares, classifications, divisions, allowances, charges, or rules; agreement; approval; maintenance of accounts, records, files, and memoranda of organization; inspection; information and reports; verified statement of motor carrier; meeting; notice and minutes; disapproval of certain agreements; order to cease and desist from violation of agreement.

Sec. 6b. (1) This section applies to all matters before the commission for which the commission has jurisdiction under article II. If 2 or more motor carriers desire to jointly consider and initiate rates, fares, classifications, divisions, allowances, charges, or rules of the motor carriers, those joint considerations and initiations shall only be conducted pursuant to an agreement which is submitted to, and approved by, the commission under rules promulgated by the commission. The commission shall by order approve the

agreement if it finds that it conforms with the requirements of subsections (2) to (9). The commission shall not eliminate collective rate-making by application of its authority under this section.

(2) The motor carriers who are parties to an agreement approved by the commission under this section shall submit proposed rates, fares, classifications, divisions, allowances, charges, or rules of the motor carriers to the commission. The proposed rates, fares, classifications, divisions, allowances, charges, or rules of the motor carriers shall not be effective unless they are submitted to the commission and are permitted under the provisions of this act and the rules promulgated under this act.

(3) Each conference, bureau, committee, or other organization established pursuant to an agreement approved by the commission under this section shall maintain those accounts, records, files, and memoranda and shall submit to the commission information and the reports as prescribed by the commission. All the accounts, records, files, and memoranda shall be subject to inspection by the commission or its authorized representative.

(4) Each motor carrier which is a party to an agreement described in this section shall file with the commission a verified statement that specifies its name, its mailing address, and the telephone number of its main office; the names and addresses of each of its affiliates; the names, addresses, and affiliates of each of its officers and directors; the names, addresses, and affiliates of each person, who together with an affiliate owning or controlling any debt, equity, or security interest in it has a value of at least \$100.00. As used in this subsection:

(a) "Affiliate" means a person controlling, controlled by, or under common control or ownership with another person.

(b) "Ownership" means equity holdings in a business entity of at least 5%.

(5) A meeting of a conference, bureau, committee, or other organization established pursuant to an agreement approved by the commission under this section which includes motor carrier tariffs, rates, fares, or charges as matters of discussion or decision shall be open and all persons shall be allowed to attend meetings.

(6) Notice of the meeting described in subsection (5) must be posted at the principal place of business of the organization and at the commission at least 8 working days before the date of the meeting. The notice must contain the name of the organization, its address, its telephone number, a meeting docket or agenda, and the place, date, and time of the meeting.

(7) Minutes of a meeting described in subsection (5) shall be kept by the organization and shall become available to the general public and shall be submitted to the commission on or before the eighth working day after a meeting. Minutes of other meetings shall be maintained by the organization for 1 year after the meeting. Minutes for a meeting described in subsection (5) shall contain the date, time, and place of meeting; members present; members absent; and decisions taken. Votes on rates, fares, charges, or tariff items shall be recorded. Notice of other meetings described in subsection (5) shall be sent to the commission on or before the eighth working day after the meeting and shall contain the date, time, and place; members present; members absent; and purpose of meeting.

(8) The commission shall not approve under this section any agreement between or among carriers of different modes unless the agreement is limited to matters relating to transportation under joint rates or over through routes.

(9) The commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action after any determination is arrived at through the procedure.

(10) The commission, upon complaint by a shipper or receiver of freight transported under jointly considered and initiated rates and charges or by a carrier party to an agreement approved by the commission under this section, may investigate and determine whether any agreement previously approved by it under this section has been violated in a manner contrary to the transportation policy set forth in section 2 of article I. After investigation, the commission shall, by order, direct the parties to the agreement to cease and desist from violations of that agreement and this section if it finds the action necessary to assure conformity with the transportation policy. The effective date of any cease and desist order shall be postponed for a period which the commission determines to be reasonably necessary to avoid undue hardships. Any commission decision issued after December 28, 1982 which has terminated a previously approved agreement for reasons or on terms inconsistent with this section shall be null and void.

(11) An order shall not be entered under this section unless interested parties have been afforded reasonable notice and opportunity for hearing.

History: Add. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

479.7 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed section pertained to accident reports.

479.8 Furnishing identification for vehicle; removal of identification.

Sec. 8. The commission shall furnish proper and sufficient identification for each vehicle authorized to operate under the terms of this act, in addition to the regular registration or license plates required by law. The commission is authorized to remove and take custody of any identification found attached to a motor vehicle for which it was not issued, or when the holder of the identification has made or is making unlawful use thereof.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.8;—Am. 1971, Act 82, Eff. Mar. 30, 1972.

479.9 Insurance, bonds.

Sec. 9. Insurance and bond requirements. The commission shall have full power and authority to make and shall make such insurance or bond requirements under uniform regulations as it may deem necessary adequately to protect the interests of the public.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.9.

479.10 Certificates and permits; termination; application for renewal; effect of delinquency in payment of earned fees; failure of applicant to comply with laws and rules; notice; correction; provisions of act voiding certificate or permit for cause self-executing; issuance of certificate or permit; adding and withdrawing equipment.

Sec. 10. (1) All certificates or permits granted hereunder shall be made to terminate as of December 31 of the calendar year during which the certificate or permit is issued. All motor carriers shall make application for the renewal of their certificates or permits not before October 1 and not later than December 1 of the year in which their current certificate or permit expires. Certificate and permit holders not making application by December 1 shall be advised by the commission and given the opportunity to file their applications on or before December 31 on payment of a penalty of \$50.00. The renewal application shall be accompanied with the required fees, proof of insurance, and all other things required to be filed with the commission by law or by the rules and orders of the commission.

(2) The certificate or permit of any motor carrier who is delinquent in the payment of the earned fees required by this act to be paid at the time of any renewal thereof shall be deemed canceled and terminated, on and after January 1 of the year for which application should have been made under the requirements of this section, and the motor carrier shall be prohibited from operating any of its vehicles upon or over the highways of this state and all privileges granted it under its expiring certificate or permit shall cease.

(3) In case any applicant for renewal of a certificate or a permit fails, otherwise than in the payment of fees, to comply in all respects with the law and the rules of the commission in connection with the filing of the application for renewal, the commission immediately shall give specific written notice of that failure to the applicant and shall require in the notice that the applicant correct the matter specified within 10 days after the notice. Upon the failure of the applicant to make the correction within the time, or in case of the failure to accompany the application with the required filing fee, the certificate or permit of the applicant shall be revoked without any action whatever upon the part of the commission.

(4) Except as in this section otherwise provided, the provisions in this act voiding a certificate or a permit for cause shall be self-executing and shall not require any affirmative act on the part of the commission, and the commission is expressly prohibited from extending and shall not have any power to extend the privilege or permit nor to allow the carrier to engage in any operation over the public highway. In no case shall the revocation of any certificate or a permit release any motor carrier from liability for accrued fees.

(5) Upon full compliance with the requirements with respect to the filing of the application, the certificate or permit shall issue for the succeeding calendar year, subject to all the provisions of this act.

(6) The holder of a certificate or permit under this act may add equipment at any time, but when adding equipment subject to a privilege fee prescribed by this act, the holder of a certificate or permit shall file an ex parte application in the form as the commission requires and pay for each unit of equipment added, the fee prescribed in section 2 of article IV. A notice of hearing on the application shall not be required and a public hearing shall not be held thereon. When the holder of any certificate or permit, excepting a certificate or permit that authorizes the transportation of household goods while such household goods are being transported, by lease, contract, or any arrangement other than outright purchase, augments his or her equipment, the lease, contract, or arrangement shall be in writing and of such a character so as to vest in the holder exclusive possession and control of the vehicle under the lease or arrangement for the entire term of the lease or arrangement. Any operation of the vehicle shall be conducted under the exclusive supervision,

direction, and control of the holder.

(7) A certificated or permitted unit of equipment may be withdrawn from service at any time by surrendering to the commission the identification allocated to the unit at the time it was certificated or permitted.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.10;—Am. 1956, Act 118, Imd. Eff. Apr. 13, 1956;—Am. 1959, Act 232, Imd. Eff. Aug. 12, 1959;—Am. 1963, Act 156, Eff. Sept. 6, 1963;—Am. 1966, Act 162, Imd. Eff. July 1, 1966;—Am. 1967, Act 27, Imd. Eff. June 2, 1967;—Am. 1969, Act 149, Eff. Mar. 20, 1970;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

479.10a Lease, contract, or arrangement under which holder augments equipment; section inapplicable to interchange of equipment; subsection (1) inapplicable to movers of household goods.

Sec. 10a. (1) The lease, contract, or arrangement under which a holder augments his or her equipment shall specify the period for which the equipment is to be operated, which shall not be less than 30 days, and shall include a provision that the vehicle has, within the immediately preceding 12 months, passed an inspection pursuant to the requirements of the motor carrier safety act, Act No. 181 of the Public Acts of 1963, being sections 480.11 to 480.21 of the Michigan Compiled Laws, and 49 C.F.R. part 396.

(2) The lease, contract, or arrangement shall specify the compensation to be paid by the lessee or party to the contract or arrangement for the rental or use of the equipment.

(3) The lease, contract, or arrangement shall specify the time and date or the circumstance on which the contract, lease, or other arrangement begins, and the time or circumstance on which it ends.

(4) The lease, contract, or arrangement shall vest in the holder of the vehicle exclusive possession and control of the vehicle for the entire term of the lease, contract, or arrangement.

(5) The lease, contract, or arrangement shall provide that any operation of the vehicle shall be conducted under the exclusive supervision, direction, and control of the holder.

(6) The lease, contract, or arrangement shall provide that the vehicle, at all times, while being operated under the lease, contract, or arrangement, shall be operated only by persons who are employees of the holder who stand in relation to the holder as employee to employer.

(7) The lease, contract, or arrangement shall be in the manner, form, and further content as the commission by rule provides.

(8) The lease, contract, or arrangement shall be executed in quadruplicate; the original shall be filed with the commission. One copy shall be retained by the authorized motor carrier in whose service the equipment is to be operated, 1 copy shall be retained by the owner of the equipment, and 1 copy shall be carried on the equipment specified in the lease, contract, or arrangement during the entire period of the contract, lease, or other arrangement.

(9) Nothing in this section shall apply to the interchange with other certificated motor common carriers or the multiple certification of motor carrier equipment when specific approval and authority to interchange the equipment has been or is granted by the commission.

(10) The provisions of subsection (1) shall not apply to or be required of or between movers of household goods, when the equipment is used to transport household goods as defined by the commission.

History: Add. 1959, Act 232, Imd. Eff. Aug. 12, 1959;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

479.11 Records, books, accounts, and files of motor carrier; examination, production, and preservation; witnesses; divulging of information; public files and reports; inspection; violation as misdemeanor.

Sec. 11. (1) The commission may examine all records, books, accounts, and files of each motor carrier to whom a certificate or permit has been issued under this act, having to do with the business of transportation conducted by the carrier. The records, books, accounts, and files or other data or information, by order of the commission, shall be produced at any hearing or proceeding before the commission for use at the hearing or proceeding. The records, books, accounts, and files shall be preserved at least 3 years, except that delivery receipts and delivery records and bills of lading shall be preserved at least 1 year. The commission may compel the attendance and testimony of witnesses and do all things necessary to carry out and enforce all the provisions of this act.

(2) A member of the commission, clerk, officer, or employee of the state shall not divulge or make known, in any manner whatsoever not provided by law, to any person the operations, style of work, or any other information regarding the operations of carriers visited or inspected by him or her in the discharge of his or her official duties, or to permit any report, books, documents, accounts, files, or other data examined or inspected by him or her to be seen or examined by any person, except as provided by law. The information as

may be obtained under this section shall be and remain inviolate, except for the purposes of carrying out the provisions of this act, it being the express legislative intent to permit the use of the information by the commission, but to prevent its publication in any manner, except when lawfully presented in open hearings either before the commission or some member of the commission, or before a court of law. Nothing in this section shall be construed to apply to the public files of the commission pertaining to the application for and the certificate or permit of any motor carrier, or to quarterly or other reports, which files and reports shall during office hours be open to inspection by any motor carrier, shipper, or consignee.

(3) A person who violates this section is guilty of a misdemeanor.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.11;—Am. 1954, Act 28, Imd. Eff. Mar. 31, 1954;—Am. 1962, Act 17, Eff. Mar. 28, 1963;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1994, Act 176, Imd. Eff. June, 20, 1994.

479.12 Impounding of motor vehicles, release.

Sec. 12. Impounding. In order to prevent continued unlawful operation over the highways, the commission may direct the impounding of any motor vehicle of any motor carrier who fails or refuses to comply with all applicable law, the provisions of this act, and any lawful rule or regulation or order of the commission. Any inspector or any peace officer shall be empowered, upon an order of the commission, to impound such vehicles at the expense of the owner. Such vehicles may be released only upon order of the commission and payment by the owner of the reasonable impounding expenses.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.12.

479.13 Enforcement of act, rules and regulations; assistance.

Sec. 13. Enforcement and assistance. The commission may use any and all available legal and equitable remedies of a civil nature to enforce the provisions of this act or any lawful order, rule or regulation made in pursuance thereof. The commission is empowered to employ and appoint from time to time such experts, assistants, inspectors and other help as may be deemed necessary with the aid of the enforcing agencies of this state, to enable it at all times properly to administer and enforce this act. The inspectors so appointed by the commission shall have all the powers conferred upon peace officers by the general laws of this state. A record shall be kept by the commission showing the daily activities, violations found, and arrests made as to each inspector. No employee of the commission shall ask or receive any fee from any person for the taking of acknowledgements or any other service. It shall be the duty of the law enforcement department or agency of every division, branch or commission of the state government, and of every county and municipality within the state, to see that the provisions of this act, and the orders, rules and regulations of the commission thereunder are enforced; and every peace officer shall arrest, on sight or upon warrant, any person found violating or having violated, any provision of this act, or any order, rule or regulation of the commission; and it shall be the duty of the attorney general of the state and of the prosecuting attorneys of the counties of the state to prosecute all violations of this act, or any order, rule or regulation of the commission thereunder.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.13.

Constitutionality: Provision of this section giving inspectors appointed by the commission "all the powers conferred upon peace officers by the general laws of this state" exceeds the permitted scope of the title under which it appears and constitutes an object in addition to the singular object of the act, in violation of Mich. Const., Art. IV, § 24. *People v. Carey*, 382 Mich. 285, 170 N.W. 2d 145 (1969).

479.14 Complaints and investigations; notice; commission determination and order; making schedules conform to order; investigation, inquiry, or hearing; findings of fact and conclusions of law.

Sec. 14. (1) Upon complaint in writing by any person, firm, corporation, association, mercantile, agricultural or manufacturing society, or by any body politic, municipal organization, common carrier, or motor carrier, that any of the motor common carrier rates, fares, charges, or classifications, or any joint rate or rates of any motor common carrier are, in any respect unreasonable or unjustly discriminatory or otherwise in violation of this act, or that any practice whatsoever affecting the transportation of property by any such motor common carrier or any service in connection therewith is in any respect unreasonable or unjustly discriminatory, or that any service of such motor common carrier is inadequate, or that this act or any order, rule, or practice established by the commission applicable to the motor common carrier, or motor common carrier charges filed with the commission by the motor common carrier, in any respect has been violated or deviated from, or is being violated or deviated from by such motor common carrier; or upon a complaint against any motor contract carrier that this act or any order, rule, or practice established by the commission applicable to the motor contract carrier has been violated or deviated from, or is being violated or deviated from, the commission shall notify the parties complained of that complaint has been made, and shall furnish a

copy of the complaint with the notice, and 20 days after the notice has been given, the commission may proceed to investigate the complaint as provided in this section. Only the commission, on its motion, may bring a complaint against a contract carrier for predatory rates, practices, or rules pursuant to section 6(2) of article III. Before proceeding to make the investigation, the commission shall give the motor carrier and the complainants at least 10 days' notice of the time and place when and where the matters will be considered and determined, and the parties shall be entitled to be heard and shall have process to enforce the attendance of witnesses. If upon investigation of a motor common carrier, any matters complained of are found to be in violation of this act, the commission shall determine and by order fix and order substituted therefor the practice, service, or charges as shall conform to this act and the rules of the commission applicable to the motor common carrier. If upon investigation of a motor contract carrier, any matters complained of are found to be in violation of this act, the commission shall determine and by order fix and order substituted therefor the practice, service, or minimum rate as shall conform to this act and the rules of the commission applicable to the motor contract carrier. The order shall further provide that the parties complained of shall cease and desist from the violation and conform to the terms of the order. The commission shall cause a certified copy of each order to be delivered to the parties affected thereby, which order shall of its own force take effect and become operative 20 days after the service of the order. All motor common carriers to which the order applies shall on or before the date when the order becomes effective, make changes in schedules on file as shall be necessary to make the same conform to the order. All motor contract carriers to which the order applies shall, on or before the date the order becomes effective, conform their practice, service, or minimum rate to the order. Certified copies of all other orders of the commission shall be delivered to the parties affected in like manner, and, unless otherwise prescribed in this act, shall take effect within the time thereafter as the commission prescribes.

(2) When the commission believes that any provision in this act or any rule or order of the commission made in pursuance of this act, has been or is being violated, or that any charges have been made or collected or service performed in violation thereof, and that an investigation relating thereto should be made, the commission may on its own motion or on the application of anyone investigate the suspected violation. Before making the investigation, the commission shall present to the parties alleged to be guilty of the violations a statement in writing setting forth the matters to be investigated. Thereafter, on 10 days' notice to the parties of the time and place of the investigation, the commission may proceed to investigate the matters complained of in the same manner, and make like orders, as if the investigation had been made upon complaint. An investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or any employee of the commission when so directed by the commission or its chairperson. The commissioner or employee shall submit findings of fact and conclusions of law to the commission. If the findings of fact and conclusions of law are approved and confirmed by the commission and ordered filed in its office, they shall be the decision and the order of the commission. All investigations, inquiries, or hearings of a commissioner or an employee are considered as the investigation, inquiry, and hearing of the commission.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.14;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

479.14a Commencement of operations by motor carrier.

Sec. 14a. (1) A motor common carrier may not commence operations under permanent authority granted to it by the commission for 20 days after issuance of the order, nor before a certificate has been issued.

(2) A motor contract carrier may not commence operations under permanent authority granted to it by the commission before a permit has been issued.

History: Add. 1943, Act 244, Imd. Eff. Apr. 22, 1943;—CL 1948, 479.14a;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

479.15 Powers of commissioners; disobedience of or wilful failure to comply with order or subpoena; refusal of witness to testify; witness fees and mileage; depositions; record of proceedings.

Sec. 15. (1) Each of the commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and the production of papers, waybills, books, accounts, documents, and testimony. In case of disobedience on the part of any person or persons, or wilful failure to comply with any order of the commission or any commissioner or any subpoena, or upon the refusal of any witness to testify regarding any matter upon which the witness may be lawfully interrogated, or to produce any books or papers in the witness's custody or control which the witness shall have been required by any commissioner to produce, a judge of the circuit

court, upon application of a commissioner, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(2) Each witness who appears before the commission by its order shall receive for his or her attendance the fees and mileage now provided for witnesses in civil cases in circuit court, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by the witnesses and approved by the chairperson of the commission. A witness subpoenaed at the instance of parties other than the commission, shall not be entitled to compensation from the state for attendance and travel, unless the commission certifies that his or her testimony was material and necessary to the matter investigated.

(3) The commission or any party, in any investigation, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts.

(4) A full and complete record of all proceedings had before the commission on any investigation upon complaint, or upon its own motion, shall be kept.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.15;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

479.16 Violation of act or failure to obey order, decision, or rule of commission; misdemeanor; penalty; prosecution.

Sec. 16. Each person to whom this act applies, who violates or who procures, aids, or abets, in the violation of this act, or who fails to obey an order, decision, or rule of the commission, or who procures or aids or abets a person in his or her failure to obey an order, decision, or rule, for which a penalty is not otherwise provided in this act, is guilty of a misdemeanor, punishable by a fine of not exceeding \$500.00, or imprisonment for not more than 90 days, or both. When this act, or an order or decision of the commission has been violated, the offense may be prosecuted in any county, city, or jurisdiction in or through which any motor vehicle implicated was present at the time of the violation.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1945, Act 264, Eff. Sept. 6, 1945;—CL 1948, 479.16;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

479.17 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed section pertained to certificates and permits issued under authority of previous acts.

479.18 Finding, order, or certificate; revocation, suspension, alteration, amendment, or modification; hearing; notice; assessment for violation; rehearings; service, effect, and review of orders; docket of causes and proceedings; copies; disposition of assessments; applicability and uniformity of chapter; conflicting laws; payment and allocation of local civil fines; more than 1 citation; equipment violation; training requirements as motor carrier enforcement officer; definitions.

Sec. 18. (1) The commission may, upon application of any person or any motor carrier, or upon its own motion, and upon at least 10 days' notice to the parties affected thereby, for good cause, and after an opportunity to be heard, revoke, suspend, alter, amend, or modify any of its findings or orders. However, a certificate or permit shall only be amended, altered, modified, revoked, or suspended after like notice and opportunity to be heard and upon clear proof of good, just, and sufficient cause. In addition, beginning January 1, 1989, a person or motor carrier may also be subject to an assessment of not to exceed \$500.00 for each violation of this act, a rule promulgated or an order issued under this act, or a term or condition of a certificate or permit.

(2) The commission may grant rehearings in all proceedings before it upon petition filed within the time allowed by law to bring proceedings for review. All orders entered pursuant to this section shall be served and take effect as provided in this act for original orders, and the time allowed by law to bring proceedings to review any order of the commission shall continue after the order denying the hearing or after the order made upon a rehearing. The commission shall keep a docket of all causes and proceedings under this act and upon request, upon payment of a reasonable fee, shall furnish any interested party fair copies of any application, answer, petition, motion, order, finding, certificate, or permit on file with, or made or issued by it in any proceeding.

(3) The assessments collected pursuant to this section shall be deposited in the truck safety fund established in section 25 of 1951 PA 51, MCL 247.675.

(4) This chapter shall be applicable and uniform throughout this state and in all political subdivisions and local units of government in this state. A local unit of government shall not adopt, enact, or enforce a local

law that is in conflict with this act.

(5) A local law or a portion of a local law that imposes a criminal penalty for an act or omission that is a civil infraction under this act, or that imposes a criminal penalty or civil sanction in excess of that prescribed in this act, is in conflict with this act and is void to the extent of the conflict.

(6) Except for a case in which the citation is dismissed pursuant to subsection (7), proceeds of a civil fine imposed by a local unit of government for violation of a local law regulating the operation of for-hire motor vehicles and corresponding to this act shall be paid to the county treasurer and shall be allocated as follows:

(a) Seventy percent to the local unit of government in which the citation is issued.

(b) Thirty percent for library purposes as provided by law.

(7) The owner or operator of a commercial motor vehicle shall not be issued more than 1 citation for each violation of a code or ordinance regulating the operation of a commercial motor vehicle and substantially corresponding to a provision of sections 683 to 725a of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.725a, within a 24-hour period. If the owner or operator of a commercial motor vehicle is issued a citation for an equipment violation that does not result in the vehicle being placed out of service, the court shall dismiss the citation if the owner or operator of that commercial motor vehicle provides written proof to the court within 14 days after the citation is issued showing that the defective equipment indicated in the citation has been repaired.

(8) In order to be classified as a motor carrier enforcement officer, a police officer must have training equal to the minimum training requirements, including any annual training updates, established by the department of state police for an officer of the motor carrier division of the department of state police. A police officer who has received training equal to these minimum training requirements before the effective date of this section is considered a motor carrier enforcement officer for purposes of this act.

(9) As used in this section:

(a) "Local law" includes a local charter provision, ordinance, rule, or regulation.

(b) "Out of service" means that process established under the motor carrier safety act, 1963 PA 181, MCL 480.11 to 480.22.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.18;—Am. 1988, Act 355, Eff. Apr. 1, 1989;—Am. 2000, Act 96, Imd. Eff. May 15, 2000.

479.19 Injunctive relief.

Sec. 19. Injunction. Upon the violation of any provision of this act or upon the violation of any rule, regulation, or order of the commission, any judge of the circuit court of any county where such violation occurs shall have the power to restrain and enjoin the person from further violating any of the said rules, regulations, and orders. Such injunctive relief may be granted upon the application of the commission, the attorney general, the prosecuting attorney of any county, or any person, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any motor carrier aggrieved. No bond shall be required when such injunctive relief is sought upon the application of the commission, the attorney general, or the prosecuting attorney of any county.

History: 1933, Act 254, Eff. Oct. 17, 1933;—CL 1948, 479.19.

479.20 Review of order or decree.

Sec. 20. Any order or decree of the commission shall be subject to review in the manner provided for in section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

History: 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1939, Act 261, Eff. Jan. 10, 1942;—Am. 1943, Act 244, Imd. Eff. Apr. 22, 1943;—CL 1948, 479.20;—Am. 1951, Act 150, Eff. Sept. 28, 1951;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1987, Act 9, Eff. Apr. 1, 1987.

ARTICLE VI

479.41 Duties of commission; rules.

Sec. 1. The commission shall supervise and regulate the safety of operations of each motor carrier. The commission may promulgate rules for the purpose of promoting safety upon the highways and the conservation of their use.

History: Add. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

Compiler's note: Former MCL 479.41, which pertained to commercial zone registration, was repealed by Act 399 of 1982, Imd. Eff. Dec. 28, 1982.

479.42 Review by department of state police; determination of compliance; report.

Sec. 2. Upon request of the commission, the department of state police shall review the operation of an intrastate motor carrier to determine whether the carrier is in compliance with applicable safety related laws and rules and issue a report within 60 days after completion of its review to the commission.

History: Add. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

Compiler's note: Former MCL 479.42, which pertained to application for registration, was repealed by Act 399 of 1982, Imd. Eff. Dec. 28, 1982.

479.43 Rule or order; development and implementation by public service commission; imposition of unsatisfactory rating.

Sec. 3. The public service commission, in cooperation with the department of state police, will develop and implement by rule or order a motor carrier safety rating system within 12 months after the effective date of this article. In the rating system, an unsatisfactory rating shall not be imposed without an on-site safety review being conducted by the department of state police.

History: Add. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

Compiler's note: Former MCL 479.43, which pertained to application for registration, was repealed by Act 399 of 1982, Imd. Eff. Dec. 28, 1982.

479.44-479.49 Repealed. 1982, Act 399, Imd. Eff. Dec. 28, 1982.

Compiler's note: The repealed sections pertained to granting or denial of application, fees, rates, combining operations under commercial zone registration, renewal of operations, and applicability of article.